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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,705	07/14/2003	Kurt Schulz	1179 US	3725

20346 7590 02/09/2005  
KEY SAFETY SYSTEMS, INC.  
PATENT DEPARTMENT  
5300 ALLEN K BREED HIGHWAY  
LAKELAND, FL 33811-1130

EXAMINER

TO, TOAN C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/617,705

Applicant(s)

SCHULZ ET AL.

Examiner

Toan C To

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11-23-2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 6-11, 13 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10-22-2003</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species 1 (represented by figure 3), claims 1-5, 12 and 14 in the reply filed on November 23, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 6-11, 13, and 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 23, 2004.

### ***Abstract***

3. The abstract of the disclosure is objected to because the abstract contains more than 150 words. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Smithson et al (U.S. 5,971,489).

Smithson discloses an apparatus comprising a load limiting device which serves as a connection between a vehicle safety restraint and an anchor point, the load limiting device comprising a housing (22) and a deformable member (23), at least one of which is configured for connection to a vehicle safety restraint and the other of which is configured for connection to the anchor point (column 4, lines 57-65), the housing (22) and the deformable member (23) being moveable relative to each other in a predetermined manner when force is applied to one or the other of the housing and the deformable member, and the housing having a hardened member (26) which is harder than the deformable member (23), the hardened member (26) positioned to engage and deform the deformable member (23) as the deformable member (23) moves relative to the housing.

6. Claims 1-3, 5, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Smithson et al (U.S. 5,971,489).

Smithson discloses an apparatus comprising a load limiting device which serves as a connection between a vehicle safety restraint and an anchor point, the load limiting device comprising a housing (2) and a deformable member (1), at least one of which is configured for connection to a vehicle safety restraint and the other, the housing (2) and the deformable member (1) being moveable relative to each other in a predetermined manner when force is applied to one or the other of the housing and the deformable member, and the housing having a hardened member (15) which is harder than the deformable member (1), the hardened member (15) positioned to engage and deform

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the deformable member (1) as the deformable member (1) moves relative to the housing (2).

As to claims 2-3, 5, 12, and 14, Smithson discloses an apparatus, wherein, the housing comprises a pair of housing components (left and right components 7) which define an opening (opening between left and right components 7) through which the deformable member (1) is pulled and wherein the hardened member (15) is supported by the housing components, located in the opening in the housing and positioned to engage and deform the deformable member (1) as the deformable member is being pulled through the opening in the housing; wherein the deformable member comprises a strip having a first portion (4) configured for connection to a component of safety restraint system and a second portion having a stop (10); the strip having a central portion (3) located between the first and second portions that is configured to be deformed in a predetermined manner when the strip is pulled through the housing and engaged by the hardened member (15); wherein, the strip is configured to deform in a digressive force/step manner as the strip is being pulled through the housing.

***Allowable Subject Matter***

7. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTo  
January 31, 2005

 2/7/05  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600